

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

CHERYL A. HIGGINS,

Plaintiff,

-against-

6:03-CV-0826  
(LEK/DEP)

JO ANNE B. BARNHART, Commissioner of  
Social Security,

Defendant.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on April 17, 2006 by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 9). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Cheryl A. Higgins, which were filed on May 1, 2006. Objections (Dkt. No. 10). Defendant filed a response to the objections on May 12, 2006. Response (Dkt. No. 11).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation

should be approved for the reasons stated therein.<sup>1</sup>

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

**ORDERED**, that Defendant's motion for judgment on the pleading (Dkt. No. 8) is **GRANTED**; and it is further

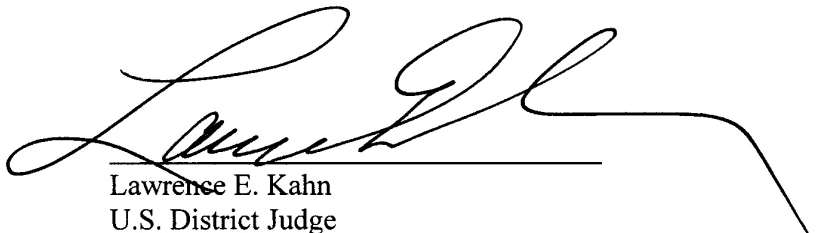
**ORDERED**, that the Commissioner's determination that Plaintiff is not disabled is **AFFIRMED**; and it is further

**ORDERED**, that Plaintiff's complaint in this action (Dkt. No. 1) is **DISMISSED** in its **ENTIRETY**; and it is further

**ORDERED**, that the Clerk serve a copy of this order on all parties.

**IT IS SO ORDERED.**

DATED: June 01, 2006  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge

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<sup>1</sup> The Court wishes to note that the name of the ALJ is, in fact, Joseph F. Givins, not Joseph F. Gibbons. The Court also wishes to note that the citation for Universal Camera Corp. v. NLRB is as follows: 340 U.S. 474, 488, 71 S. Ct. 456, 464 (1951).